ATTACHMENT 12

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Via Electronic Mail   March 22, 2024

Evan Mendelson
Division of Enforcement
Federal Trade Commission
600 Pennsylvania Ave., N.W., Suite CC-9528
Washington, D.C. 20580
emendelson@ftc.gov

> **Re:** *FTC v. Amazon.com, Inc.*, No. 2:23-cv-0932-JHC (W.D. Wash.)

Counsel:

I write on behalf of Amazon.com, Inc. ("Amazon"), in response to your March 15, 2024 letter regarding Amazon's production of data.

Amazon Has Undertaken Extensive Efforts to Facilitate Alignment on its Production of Data in Response to the FTC's Burdensome Requests

As you know, we have been negotiating the scope of Amazon's data productions in good faith since fall 2023. In that time, Amazon has produced multiple versions of a data sample that provides dozens of categories of responsive data. In addition, we have provided a detailed dictionary defining nearly two hundred fields in the data sample. We have also responded to dozens of specific questions about the data sample that you posed in your February 15, 2024. Additionally, we have met and conferred about the data on multiple occasions, including on December 14, 2023, February 8, 2024, and February 26, 2024.

Amazon went through the burden of providing multiple data samples and related information to facilitate discussion regarding the scope of Amazon's data production, given the overly broad and incredibly voluminous nature of the FTC's data requests. But despite this months-long negotiation process, the FTC has yet to confirm that the data Amazon has produced so far sufficiently responds to the FTC's requests. Further, the FTC has not responded to Amazon's repeated requests for confirmation that the FTC is even in a position to receive such a large volume of data. Nor has the FTC informed Amazon whether it would be willing to accept a statistically significant sample of the requested data, as opposed to the extensive volume of data that would be produced if the FTC refuses to accept a sample.

Your March 15 letter raises more than three dozen *additional* questions about Amazon's data sample, many of which relate to data that the FTC already asked questions about and to which Amazon already responded. Below we have provided responses regarding the nine
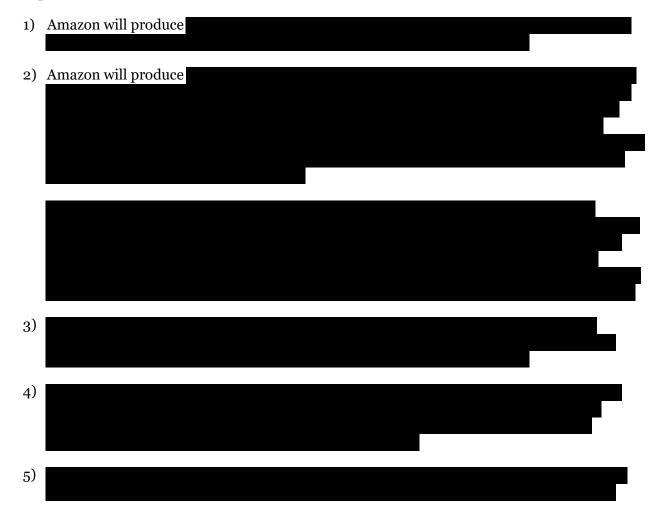
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categories of data which you allege are missing or incomplete. The balance of your questions amounts to an attempt to receive informal discovery outside the formal process and limits.

Given the significant amount of sample data and information Amazon has already provided, and in light of the case schedule [Dkt. 66], Amazon will make reasonable efforts to produce data consistent with its responses and objections. **By March 29, 2024, please advise**: (1) if the FTC will accept a statistical sample of the requested data; and (2) if there are any data fields the FTC will remove from its requests. Amazon will produce the data via AWS S3.

FTC's Alleged Categories of "Missing or Incomplete Data"

In your March 15 letter, you identify nine categories for which you believe Amazon has not provided sample data. The sample was never intended to be exhaustive, and Amazon does not intend to further supplement the sample as we must now turn to pulling the data as noted above. Nevertheless, we have responded below regarding each of those categories, subject also to Amazon's responses and objections served on the FTC, including on September 5, 2023, September 29, 2023, and October 9, 2023.

1) Amazon will produce ██
   ██

2) Amazon will produce ██
   ██
   ██
   ████████████████████████████

   ██
   ██
   ██

3) ██
   ██

4) ██
   ██

5) ██

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6) ██

7) ██

8) ██

9) ██

Should you wish to meet and confer, please offer your availability between April 1 and 4.

*   *   *

Please do not hesitate to contact me if you have any questions.

Sincerely,

/s/ Laura Flahive Wu
Laura Kim
John Graubert
John Hall
Laura Flahive Wu
Stephen Anthony
Megan Rodgers